§ 203.346 Postponement of foreclosure—mortgagors in military service.

If at any time during default the mortgagor is a ''Person in military service,'' as such term is defined in the Soldiers' and Sailors' Civil Relief Act of 1940, the period during which the mortgagor is in such service shall be excluded in computing the period within which the mortgagee shall commence foreclosure or acquire the property by other means as provided in § 203.355 of this subpart. No postponement or delay in the prosecution of foreclosure proceedings during the period the mortgagor is in such military service shall be construed as failure on the part of the mortgagee to exercise reasonable diligence in prosecuting such proceedings to completion as required by this subpart.

[36 FR 24508, Dec. 22, 1971, as amended at 61 FR 36265, July 9, 1996]

ASSIGNMENT OF MORTGAGE

§ 203.350 Assignment of mortgage.

(a) *Assignment of modified mortgages pursuant to section 230, National Housing Act.* HUD may accept an assignment of any mortgage covering a one-to-four family residence if the following requirements are met:

(1) The mortgage was in default;

(2) The mortgagee has modified the mortgage under § 203.616 to cure the default and to provide for mortgage payments within the reasonable ability of the mortgagor to pay, at an interest rate not exceeding current market interest rates; and

(3) Such other conditions that HUD may prescribe, which may include the requirement that the mortgagee continue to be responsible for servicing the mortgage.

(b) *Assignments pursuant to section 248, National Housing Act.* Notwithstanding the provisions of paragraph (a), the Commissioner shall, upon application by the mortgagee, approve the assignment to the Commissioner of any mortgage insured pursuant to section 248 of the National Housing Act (see § 203.43h) where the mortgagor has been in default for more than 90 days. The mortgagee may not request the Commissioner to accept an assignment

until the mortgagee has submitted documents to the Commissioner showing that the requirements of § 203.604 have been met. HUD shall then notify the mortgagee of its approval of the mortgagee's actions under § 203.604 and that the mortgagee may assign the mortgage to the Secretary, or HUD will specify what further action the mortgagee must take to meet the requirements of § 203.604.

(c) *Assignment of mortgages insured pursuant to section 247, National Housing Act.* Notwithstanding the provisions of paragraph (a) of this section, the Secretary will, upon application by the mortgagee, agree to accept an assignment of any mortgage insured pursuant to section 247 of the National Housing Act (§ 203.43i of this part) where the mortgagor has been in default for more than 180 days, provided that the requirements of § 203.665 are satisfied.

(d) *Assignment of mortgages authorized by section 203(q), National Housing Act.* Notwithstanding the provisions of paragraph (a) of this section, the Secretary will, upon application by the mortgagee, agree to accept assignment of any mortgage authorized by section 203(q) of the National Housing Act (§ 203.43j of this part) if

(1) The mortgagor has been in default for more than 90 days for failure to make a monthly payment,

(2) The requirements of § 203.666 are satisfied, and

(3) The date of default occurs before the mortgagor and the lessor execute a lease renewal or a new lease with a term of not less than five years beyond the maturity date of the mortgage, or with a term established by an arbitration award.

If the default is non-monetary, the date of default occurs prior to an action described in paragraph (d)(3) of this section, the requirements of § 203.666 are satisfied, and the mortgagor has been in default for more than 30 days, the Secretary may in his or her discretion, upon application by the mortgagee, agree to accept an assignment of the mortgage. If the leasehold estate has terminated before the mortgage has been assigned, or title to the property conveyed, to the Secretary, and the mortgage is in default for any